

Message Text

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61

ACTION ARA-20

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-04 RSC-01 PRS-01 SPC-03 SS-20

USIA-15 ACDA-19 IO-14 AID-20 COME-00 EB-11 FRB-02

TRSE-00 XMB-07 OPIC-12 CIEP-02 LAB-06 SIL-01 OMB-01

DRC-01 /194 W

----- 110389

R 121709Z DEC 73

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 8104

INFO AMEMBASSY BOGOTA

AMEMBASSY CARACAS

AMEMBASSY LA PAZ

AMEMBASSY QUITO

AMEMBASSY SANTIAGO

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EO 11652 N/A

TAGS: ETRD, CO, VE, VL, EC, CI, PE

SUBJ: ANDEAN PACT; TREATMENT OF FOREIGN CAPITAL

REF: LIMA 8915 DATED DECEMBER 6, 1973

1. IN WAKE OF DEVELOPMENTS IN CHILE, EXPECTATIONS HAVE BEEN VOICED REGARDING MODIFICATION OF DECISION 24. AT RECENT COMMISSION MEETING CHILEANS DID NOT OFFICIALLY RAISE THIS ISSUE, BUT IN PRIVATE CONVERSATIONS SUGGESTED NEED FOR MORE FLEXIBILITY.

2. AS ALREADY REPORTED IN REFTL, COLOMBIANS STATED AT COMMISSION MEETING THAT EFFECTIVE DATE OF DECISION 24 IN THAT COUNTRY SHOULD BE SEPTEMBER 15, 1973 INSTEAD OF JULY 1, 1971. PERUVIANS OBJECTED STRONGLY.

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JUDGING FROM A MEMORANDUM SENT BY ANDI TO ENRIQUE ZUREK,

COLOMBIAN COMMISSION MEMBER, THE COLOMBIAN PRIVATE SECTOR IS IN FAVOR OF CONSIDERABLE CHANGES IN DECISION 24. ANDI SUGGESTIONS CAN BE SUMMARIZED AS FOLLOWS:

3. (A) COLOMBIA SHOULD BE FREE TO DETERMINE TREATMENT IT WANTS TO GIVE TO FOREIGN FIRMS WHICH SUPPLY ONLY THE NATIONAL MARKET OR EXPORT TO THIRD COUNTRIES. (B) FIRMS WHICH EXISTED AT TIME OF APPROVAL OF DECISION 24 (PRESUMABLY SEPTEMBER 15, 1973) SHOULD NOT BE REQUIRED TO CONVERT TO MIXED ENTERPRISES. (C) MORE FLEXIBILITY IN TREATMENT OF FOREIGN FIRMS WHICH SUPPLY NEEDED AND COMPLEX TECHNOLOGY. (D) ONLY 65 PERCENT OF LOCAL EQUITY OWNERSHIP (INSTEAD OF 80 PERCENT) SHOULD BE SUFFICIENT TO CLASSIFY A FIRM AS LOCAL. (E) CAPITAL WHICH DOES NOT HAVE REPATRIATION RIGHTS SHOULD BE CONSIDERED LOCAL EVEN IF OWNED BY FOREIGNERS. (F) FOREIGN FIRMS SHOULD NOT BE DEPRIVED OF ACCESS TO ANDEAN PACT MARKET IF THEY ARE UNABLE, IN GOOD FAITH, TO FIND BUYERS FOR THEIR SHARES IN COMPLIANCE WITH DIVESTMENT REQUIREMENTS. (G) CAPITAL SHARES FROM INTERNATIONAL AGENCIES SHOULD BE COUNTED AS LOCAL CAPITAL FOR PURPOSES OF COMPUTING OWNERSHIP PERCENTAGE IN NATIONAL AND MIXED ENTERPRISES. (H) ALTHOUGH ART. 21 IN DECISION 24 STATES THAT INTANGIBLE TECHNOLOGICAL CONTRIBUTIONS CANNOT BE COUNTED AS CAPITAL, THIS SHOULD APPLY ONLY TO FOREIGN TECHNOLOGY SUPPLIERS AND NOT TO LOCAL ONES. (I) FOREIGN FIRMS SHOULD HAVE ACCESS TO LOCAL CREDIT AS SOON AS THEY SIGN THEIR LETTER OF INTENT TO CONVERT TO MIXED ENTERPRISES.

4. GOVERNMENT TECHNICIANS WILL MEET IN LIMA IN FEBRUARY TO ANALYZE THE WHOLE PROGRAM OF TREATMENT OF FOREIGN CAPITAL. SOME OBSERVERS PREDICT EVENTUAL MODIFICATION OF TEXT OF DECISION 24. OTHERS SAY THAT A SOFTENING OF RULES WILL BE EFFECTED MERELY THROUGH MORE LENIENT IMPLEMENTATION. JUNTA OFFICIALS ARE NOT TOO WORRIED ABOUT MINOR MODIFICATION OF RULES, BUT FEEL THAT AN OPEN REVERSAL OF DECISION 24 WOULD GREATLY REDUCE CREDIBILITY OF ENTIRE ANDEAN INTEGRATION PROGRAM.

5. MUCH WILL DEPEND ON POSITION OF NEW ADMINISTRATION LIMITED OFFICIAL USE

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IN VENEZUELA, PARTICULARLY SINCE A VENEZUELAN IS TO PRESIDE OVER COMMISSION DURING 1974.

6. TEXT OF ANDI MEMORANDUM POUCHED TO ARA/ECF, DEPARTMENT OF COMMERCE, AND AMEMBASSY, BOGOTA. BELCHER

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